

# H.R. 2443, THE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
COAST GUARD AND MARITIME TRANSPORTATION  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS  
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## **H.R. 2443, THE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003**

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**Thursday, May 22, 2003**

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON COAST  
GUARD AND MARITIME TRANSPORTATION, COMMITTEE  
ON TRANSPORTATION AND INFRASTRUCTURE, WASHING-  
TON, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2167, Rayburn House Office Building, Hon. Frank A. LoBiondo [chairman of the subcommittee] presiding.

Mr. LOBIONDO. Good morning. The subcommittee on Coast Guard and Maritime Transportation will come to order.

The subcommittee is meeting today to hear testimony on the Coast Guard Authorization Act of 2003. As you know, we will limit the opening statements to the chairman and the ranking member. If other members have statements, we will introduce them into the record.

This morning we are here to discuss the United States Coast Guard's legislative proposal, the Coast Guard Authorization Act. This proposal authorizes the Coast Guard's fiscal year 2004 budget and personnel resources. In addition, it proposes to provide parity between certain Coast Guard and Department of Defense authorities, improve personnel management, and better accomplish its regulatory and law enforcement missions.

This is the Coast Guard's first legislative proposal since its transfer to the Department of Homeland Security, and as such, it deserves special attention to assure that the proposal provides resources and authorities needed to carry out both its old and new missions.

While I commend the President's continued commitment to increase the service funding, I am still not convinced that the Coast Guard's budget request adequately addresses the Coast Guard's funding needs.

I am particularly concerned about the shortfalls for the badly needed recapitalization program for the Coast Guard's aging vessels and aircraft known as Deepwater. Today, I am hoping, and I expect, the Commandant to document the Coast Guard's funding needs and the plans to get Deepwater back on target. From the start, Deepwater has been underfunded, jeopardizing on-time delivery of important assets. I strongly endorse increased funding to bring the procurement schedule back on track. This subcommittee also intends to fully examine the benefits of expediting the Deepwater procurement schedule as outlined in the Coast Guard's recently released congressionally mandated report.

I also look forward to hearing the Commandant tell us how his fiscal 2004 budget request will allow the Coast Guard to meet implementation requirements for the Maritime Transportation Security Act. This is a landmark measure that will provide for increased security efforts at the Nation's 361 ports and along our waterway. The subcommittee will keep a close eye on the execution of this Act to ensure adequate funding is made available to keep our ports and waterways secure and our maritime first responders ready to meet the challenges we face today and in the future.

Finally, I look forward to hearing from the Commandant on his fiscal year 2004 budget request and how we will assure that the performance of traditional Coast Guard missions is preserved. Preservation of traditional Coast Guard missions is enshrined in the Homeland Security Act. However, even before the Coast Guard's move to the new Department, the General Accounting Office and others raised significant concerns about the Coast Guard's ability to accomplish its diverse missions given the emphasis placed on homeland security-related missions. Discrepancies between the Coast Guard and General Accounting Office mission performance data must be reconciled in order to make an accurate assessment.

The subcommittee will use the Coast Guard's proposal as the starting point to draft the fiscal year 2004 Coast Guard authorization bill. However, I will make sure the subcommittee's bill authorizes adequate resources and provides appropriate authorities to allow the Coast Guard to discharge its many missions safely and effectively.

I understand Mr. Filner is on his way. Mr. Simmons, would you like to say something?

Mr. SIMMONS. Yes, Mr. Chairman. Thank you very much. I want to welcome the Admiral here this morning. I want to share with the subcommittee that yesterday I had the privilege of traveling with the Admiral and with Secretary Ridge up to the Coast Guard Academy in New London with the President as well for the graduation ceremonies of the class of 2003, which is the first class to graduate under the new rubric of the Department of Homeland Security. I think in the course of the day, both the travel time and the President's speech at the Academy, brought home to me in clear terms what a very significant role our Coast Guard is going to have now and into the future, which is why the activities of this subcommittee are so important. Of course, it also brought home to me the significance of some time in the future having a museum which can, of course, display the great history of our Coast Guard.

Let me conclude by saying I notice the Admiral is sporting an injury. I know how that occurred. Let's say it was in the line of duty, and aren't we lucky to have such a fine person serving us as Commandant of the Coast Guard.

Thank you, Mr. Chairman.

Mr. LOBIONDO. And Congressman Simmons, would you yield for a question?

Mr. SIMMONS. I most certainly would.

Mr. LOBIONDO. Of course, you used your valuable time with the President and Secretary Ridge to lobby hard for the priorities that we are establishing through this subcommittee.



Mr. SIMMONS. By the time the trip was over, they were all running for the exits, Mr. Chairman. Yes, I utilized my time hopefully very well.

Mr. LOBIONDO. Okay. A job well done.

Mr. SIMMONS. Absolutely.

Mr. LOBIONDO. Admiral Collins, we thank you for being here today and we look forward to hearing your statement. Please proceed.

**TESTIMONY OF ADMIRAL THOMAS H. COLLINS,  
COMMANDANT, UNITED STATES COAST GUARD**

Admiral COLLINS. Thank you, Mr. Chairman. Good morning. It is great to be with you. Thank you for your kind words, Mr. Simmons.

It is a great opportunity to appear before this committee to discuss the Coast Guard's fiscal year 2004 authorization bill. Before we dive into that, I would like to thank you, Mr. Chairman, and other members of the subcommittee for all your efforts on the 2003 authorization bill work. That was, from your view, a long time coming. It was 1998 to 2003, so we are really very, very appreciative of the support and commitment of this committee in helping move that authorization through. Clearly, here we are again with the next version of an authorization bill. We hope we can be successful with this one as well. What we are doing, the Department of Homeland Security and the Coast Guard, we are seeking to improve our capability and our capacity to perform our multiple missions by submitting this 2004 authorization bill. It has provisions that will allow us to attract, develop, retain, and deploy a diverse and highly capable and flexible workforce.

It also, very importantly, gives our people the tools they need to effectively carry out their missions and properly safeguard our Nation.

I would like to take a few moments, if I could, to highlight some of the key provisions from our perspective in the proposed bill which will help us perform our entire portfolio of missions. There are several that are connected to law enforcement effectiveness. One such provision would give Coast Guard members clear authority to arrest people for violations of Federal law on shore. Under current law, our Coast Guard law enforcement officers are authorized to arrest people for violations of U.S. law committed on the water. On land, however, they must detain a suspect who commits a violation of Federal law and wait until another Federal law enforcement agent arrives and makes the arrest. The Coast Guard needs clear authority to carry firearms and conduct arrests on shore to effectively carry out our numerous law enforcement and public protection responsibility for waterfront facilities and shore installations bordering our waterways.

A second law enforcement provision would enhance the Coast Guard's authority to stop vessels liable to seizure or examination. Under current Coast Guard authority, disabling fire cannot be employed until after warning shots have been fired. Warning shots are usually fired from an automatic weapon as a visual signal to stop after other means to communicate have been unsuccessful. A warning shot is intended to miss and may be impractical if operat-

ing in confined waters or other vessels are nearby. Disabling fire, on the other hand, is often employed using a positioned rifle to fire a single round into a fleeing vessel's engine. This approach minimizes the risks to persons on board the vessel and any persons in the immediate area.

Coast Guard members should be able to use all available tools to stop the fleeing vessel without endangering innocent bystanders. In confined waterways, this means resorting to disabling fire without public risk of firing warning shots first.

A third law enforcement provision would increase law enforcement authority for agencies enforcing Coast Guard regulations, which would result in a significant force multiplier for maritime and homeland security operations. All three law enforcement authorities will put more tools in the law enforcement tool kit for our men and women to do their jobs more effectively and more safely.

There are also a number of provisions designed to help us manage the workforce relative to mission need. A particularly important one would increase the authorized number of commissioned officers to 7,100 and would permit the Secretary to exceed that limit in time of war or national emergency. As the Coast Guard has expanded, its need for officers with specialized skills, such as marine safety specialists, has also grown. Implementing the landmark Maritime Transportation Security Act of 2002 alone will require more officer billets than we currently have authorized. For our enlisted personnel, this bill also authorizes an incentive bonus to enter certain critical specialties.

Other provisions will also improve our efficiency and effectiveness. They include title restrictions on merchant mariner credentials, clarification of conditions for payment made from the liability trust fund, amendment of OPA 90 that are more consistent with CERCLA and provide greater efficiency in Federal recovery and authority to impose full application of safety of life and sea standards on foreign passenger vessels departing from U.S. ports.

These and a number of other provisions provide significant new authorities for the Coast Guard, not only to the benefit of the homeland security mission, but to benefit missions across the board. Clearly, threats to the security of the United States extend beyond overt acts of terrorism. Countering contraband smuggling, preventing illegal migration, preserving living marine resources, preserving environmental resources, and responding to spills of hazardous substances all are critical elements of our national and economic security. Beyond our ready response to these threats, we have an obligation to protect our citizens from harm by doing all we can to ensure safety on the water. Every provision of the proposed authorization bill reflects this careful balance between our safety and security missions.

Our authorization bill builds on the existing foundation and will help the Coast Guard maintain operational excellence across all our mission areas and will help to enhance our operational excellence that our Nation expects and deserves.

Thank you very much, Mr. Chairman, for the opportunity to testify before you today, and I will be happy to answer any questions that you and committee members may have.

Mr. LOBIONDO. Thank you, Admiral Collins.

Mr. Filner, are you ready?

Mr. FILNER. I will wait until you finish.

Mr. LOBIONDO. Okay. Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Admiral, good to have you and your able crew at the table again. This has nothing to do directly with today's hearing, but last Saturday I spent the better part of the afternoon at Coast Guard station Fort Macon in Atlantic Beach, North Carolina; well, Fort Macon, to be specific. And the past came alive again for me, Admiral. It was a very productive visit and I very much appreciate Commander Dean, who I am told will be coming to headquarters subsequently this summer. But they are doing good, pardon my incorrect grammar.

Admiral, the Coast Guard, I am told, seeks authority to require rigid hull inflatable boats manufactured in foreign countries. Currently, I am furthermore told that DOD has authority to make such requisitions. Are there no rigid hull inflatable boats available from United States manufacturers?

Admiral COLLINS. I think in the pursuit of this product, we are looking to get the best value, the best performance dimensions, wherever that may lay, and there are some innovative features in some of those foreign manufacturers, and we need to look at it in a competitive way. That is trying to get the best for our men and women out doing the job, Congressman.

Mr. COBLE. Well, I don't want you to compromise quality by any means, but I do hope, Admiral, that you will exhaust every available remedy when it comes to purchasing goods manufactured domestically. I suspect you are doing that.

Admiral COLLINS. Yes, sir. In case you didn't know, we just awarded a 700 boat, \$145 million contract to Safe Boat, which is a company up in Puget Sound, to manufacture all of our homeland security and coastal import-type small boats. So that shows you, we certainly want to underscore the competencies of the boat production in the United States. I think that reflects that, and so does our 41 foot UTB replacement program, we have awarded to three U.S. manufacturers.

Mr. COBLE. I appreciate knowing that.

Mr. Chairman, let me have one more question to the Commandant. The Coast Guard proposes to include administrative costs when setting the amount of a user fee and defines these costs.

Are the costs defined in this legislative proposal, Admiral, already included in the Coast Guard user fee calculations, A; and B, if not, are these costs consistent with OMB rules for establishing user fees, and what increases in user fees would result from recovering these additional costs? I presume, Admiral, one example might be if a boat man damaged an aid to navigation, for example, would that be a fair illustration?

Admiral COLLINS. Yes, yes, it would. If I could, let me get back to you on the record on the specifics of an answer for that one. I don't have the details on that on the tip of my tongue, Congressman.

[The information received follows:]

The costs that would be included in the calculation of administration costs include activities such as: accounting, identification, billing, collection, review, calculation, and reassessment of such fees and charges (including the costs of program review and costs of any changes to the fee or charge structure); related costs of computer hardware and software and other office equipment, supplies, and furniture; personnel, training, and travel costs; costs of compilation and analysis of data; and costs of any contract for performance of the foregoing services. All calculations under this proposal are in accordance with OMB guidelines. OMB reviewed and cleared this legislative provision before it was submitted to Congress. The Coast Guard estimates that a contract for administering the user fee program could cost approximately \$10 to \$15 million per year. It also estimates that, if these contract costs were included as part of the cost basis for setting existing user fees, existing user fee amounts could increase by not more than 10%.

Mr. COBLE. Okay. That will be fine. Admiral, you all continue to do a good job, not only at Fort Macon, but throughout the Coast Guard. I would be remiss if I didn't insert my oars into these waters and commend the Coast Guard liaison officer, at least on the House side; I don't know much about the Senate side. Over on Mount Olympus they do things differently, maybe, but the Coast Guard liaison office here does a great job. I am sure you know that, but it doesn't hurt to remind you again. Always good to have you up here, Tom.

Admiral COLLINS. Thank you for your comments, Mr. Coble.

Mr. LOBIONDO. Thank you, Mr. Coble.

Mr. Filner, are you ready?

Mr. FILNER. Thank you, Mr. Chairman. I apologize for being late, Admiral. Welcome, again, to your favorite part of your job, I know.

Admiral COLLINS. Thank you, sir.

Mr. FILNER. Let me just ask a couple of different questions. I will ask them once and then I will give you the microphone.

As you know, the Maritime Transportation Security Act that was passed a year ago mandated that vessel and facility security plans be made. As I look at the President's budget, I don't see any funding to review or approve those plans. I would like to know about that part of the budget and what you will be doing there.

Secondly, as you know, I have mentioned the HITRON helicopters here in the past. On May 1, Secretary Ridge authorized the Coast Guard's HITRON helicopters to be used for homeland security missions in addition to their counterdrug operation capability.

As I see it, of course, from the West Coast, a little bit prejudiced, eight of the HITRON helicopters are based in Jacksonville, Florida. Not one is permanently deployed on the West Coast. As I said to you before, I think that we ought to have a squadron of at least six helicopters to make sure the Pacific is secure, the eastern Pacific is secure from drug smugglers and protect some of our Nation's largest complexes. So I would hope that the authorization bill would include additional funding for these armored helicopters.

Specifically on that, do you have any plans along those lines to do that? And how much would it cost to do that, and what can we do to help you do that?

Admiral COLLINS. Yes, sir. Right now we don't have plans on the books to expand the HITRON squadron concept itself. What we have done is gone to the Justice Department, the National Security Council, and our own department, to get authorities to use airborne use of force domestically in law enforcement scenarios obviously to support our homeland security mission. The concept we would like to explore first before committing to building another squadron which could be an alternative is to do a proof of concept to use that kind of capability out of our existing H-60 helicopters. We have a number of H-60 helicopters around the country.

We are undergoing a proof of concept effort over the next 6, 7 months, hopefully done by the turn of the calendar year, using Air Station Cape Cod, which is an H-60 station, and developing that capability from that platform from air stations. And if that—while we are going through the training and the outfitting, we have to get the plane certified for that kind of weapon, a Navy certification and a whole bunch of other things. But we are working through

that and we would like to go through that proof of concept. So we have some alternative and we are rolling out this concept in all of our H-60 air stations—.

Mr. FILNER. I mean the HITRONS have been—the HITRON concept has proved to be pretty successful, right, for drug smuggling? I mean we have already done \$1.5 billion worth.

Admiral COLLINS. Yes, sir.

Mr. FILNER. And the JHAWKS, is that the same as the—.

Admiral COLLINS. Yes, sir, the JHAWK.

Mr. FILNER. Does not have the same—is not able to, say, land on one of your cutters. I mean why aren't you embracing this? I can't figure out why you are not embracing this sort of what is going on that seems so successful?

Admiral COLLINS. This is for airborne use of force within the ports and coastal areas to help with homeland security. They are already organically there. I mean, the infrastructure is there, the platforms are there, they are around the country, Traverse City has H-60s, Cape Cod, et cetera. They are around our country positioned, so we have a force in being already established and if we could roll out this capability—.

Mr. FILNER. On the West Coast also? I am sorry.

Admiral COLLINS. Yes, sir, the Kodiak, San Diego. So if we could use the current infrastructure, and can we do it in this multi mission air station, can we roll this other capability in? Can we use this particular platform? Can we get it certified? All of those things, and we will tinker with that over the year, in earnest, over the next, 6, 7 months. I think it is a good option to examine closely.

Mr. FILNER. Which option? I mean, using the JHAWKS, you mean?

Admiral COLLINS. Yes, sir.

Mr. FILNER. That may be okay for the homeland security. The other helicopter was specifically designed, as you know, for rapid movement and interdicting drugs, and I don't want you to forget that part of the mission there.

Admiral COLLINS. Yes, sir. It clearly is an option that we would like to keep—we would like to pursue, have both on the table, go through this proof of concepts, compare them both. I mean when you are looking at a new HITRON squadron, you probably have to have a minimum of about a five-helicopter unit to make it sort of a critical mass type of a thing.

Mr. FILNER. Which would cost what?

Admiral COLLINS. That is probably a \$49 million start-up and \$24 million annually to support that new infrastructure. So it is not a small amount of effort. So we would like to, again, have the proof of concept before we—.

Mr. FILNER. If I may, Mr. Chairman. I know my time is up. The first question I had about the budget for implementing the—.

Admiral COLLINS. Yes, sir, you are absolutely correct. We do not have a budget line item in the 2004 budget to support the planned development, review, and approval. The Coast Guard will be doing the port plan, overarching port plan and the vessel plans to be reviewed and facility plans and the like, and it requires renew approval and enforcement actions to implement down the line. The budget, the 2004 budget was obviously sent up through the budget

food chain prior to the enactment of the, prior to the enactment of the bill, so there is not a line item currently there.

There is a funding and a personnel requirement that we have to come to grips with to deal with that as we move from 2003 into 2004, and these plans start, fiscal year 2004s start rolling in. We are identifying the specific amounts and working with Secretary Ridge and his management and budget staff to nail down what our options are internally to come up with the fund to make this happen. It is a high priority for the Secretary.

Mr. FILNER. Do you have a number, a budget number, roughly?

Admiral COLLINS. We have a rough initial estimate. Probably be like a \$70 million issue with about 150 FTP in order to execute that over the 2003-2004 time frame, sir.

Mr. FILNER. I thank the Chair.

Mr. LOBIONDO. Admiral Collins, when do you expect from Secretary Ridge we will have an idea of how we are going to approach this?

Admiral COLLINS. I think it is going to play out here in the next month, Mr. Chairman. We will try to nail those things down as we—as there is some fine-tuning to supplement those amounts, those that were passed in 2003, and is there any flexibility to adjust those, use some of those funds and obviously we require a dialogue with the Hill. But we are working that issue over the next month, sir.

Mr. LOBIONDO. Well, the committee is very interested in hearing what plan there may be as soon as you can give us some information on that.

Admiral COLLINS. Yes, sir. That is one of my—there are 2 or 3 hot button issues for me in terms of being properly resourced to do the job, and that is one. It is a huge undertaking. It is one we want to be successful at. We clearly want to build that one for success. It involves a lot of work in a short, compressed time frame, so we have to come to grips with that.

We are already internally allocating out of our base of resources as many people as we can to that effort, both the rulemaking side, actually getting the rulemaking done, that is phase one, and then implementing the rule, reviewing plans, developing plans and all that is the next step. There are people that are needed for both of those things and we have allocated resources to try to get that job done.

Mr. LOBIONDO. Okay. We will look forward to hearing more on that.

Admiral Collins, in the GAO's April 1 testimony before the subcommittee, Ms. Hecker stated that the success of Deepwater is heavily dependent on receiving full funding every year. However, if the Coast Guard receives the requested amount of \$500 million for 2004, I believe the cumulative shortfall will be in the neighborhood of \$200, \$202 million for the project's first 3 years. In fact, this shortfall has delayed the introduction of the maritime patrol aircraft and the conversion and upgrade program for the 110-foot patrol boats. The March 2003 report on Deepwater acceleration also states that the current level of appropriations for the Deepwater implementation schedule will slip from a 20-year program to what is likely to be a 27- or 30-year program.

Given these adverse impacts, can you explain why the President's 2004 budget request for Deepwater is not consistent with the Coast Guard's Deepwater funding plan, which requires the \$500 million per year in 1998 dollars, the value of 1998 dollars adjusted for inflation, plus approximately the \$30 million for government program management costs?

Admiral COLLINS. It involves some budget trade-offs and assessment and budget competition and priorities and all of that kind of thing, many of which are above my pay grade. We were very, very appreciative for the \$500 million support. Clearly, it clearly gets us on the road. But you are absolutely correct, Mr. Chairman. Against the notional design of the project, which was submitted by the winning contractor, that design for a 20-year program to execute the program within a 20-year time frame required \$500 million in 1998 dollars, plus program management costs on top of that.

But I concur with the assessment, that \$200 million or \$202 million or so is a GAO assessment of the cumulative shortfall against that notional design. And those figures are accurate. So we are about \$200 million off that notion design. And for every dollar you are off that cash flow, you push the program out.

Mr. LOBIONDO. We understand that. So how much funding does the Coast Guard actually need in 2004 to get the Deepwater program back to where it should be if it had full funding up to that point?

Admiral COLLINS. I agree with the GAO's assessment, Mr. Chairman. If those monies somehow could become available, and we understand the constraints within the budget process. But against the notional design, the number, GAO's number is correct. It is \$202 million.

Mr. LOBIONDO. Well, as you know, Admiral, we have been wrestling with this. We have had a number of discussions. This subcommittee and I think many, beyond this subcommittee, are very concerned that in the first 3 years we have slipped to such a degree. We have some folks who remain sort of behind the scenes that weren't thrilled with this program to begin with. If we slip up beyond 30 years, we get to a 35-year slip, we are going to have people saying the program is not workable and they are going to be looking to do something different. I think we have an opportunity early on in the process to make course corrections. No one ever suggested it would be easy. I know I am talking to everyone I can about how we can bring this back on track. But we are not going to let this one go by. We are going to be watching it carefully.

Admiral COLLINS. Sure.

Mr. LOBIONDO. Mr. Thompson.

Mr. THOMPSON. Thank you very much, Mr. Chairman. Admiral, thank you for being here today. I want to just go on record thanking not only you, but the entire Coast Guard for the invaluable service that you provide. My district is a coastal district in California, and I don't know what we would do without you. Not a day goes by that you are not providing good security, good law enforcement and lifesaving tricks that I just—I don't know how you do it. I see some of those boats going out with their noses straight up in the air and how those guys can hold on, I have no idea. So your crew out there just does a fantastic job.



Admiral COLLINS. Thank you, sir.

Mr. THOMPSON. I have two questions. One is, and I want to join with my colleague and wine caucus stalwart from North Carolina in questioning the language that provides latitude in regard to the purchasing of the inflatables, original inflatables. I too am concerned about that. And I know, for a fact, that we make superior vessels right here in the United States. One of those companies that you have used before happens to be located in my district and they do a fantastic job.

Now, I agree with you, we should not compromise quality, but I really think we should, when appropriate, purchase from individuals and companies that create jobs right here in this country.

Having said that, there is one thing I would like to compromise, and that is politics. I heard from a manufacturer in California that if they really wanted to be considered for contracts with the government, they might think about going to a State that is a little bit more friendly in a political nature. And I think that is totally inappropriate. I would certainly hope that this latitude does not give way for political leverage, and that U.S.-based manufacturers get every consideration, and when they make the superior product, that that, in fact, is taken into consideration.

Admiral COLLINS. Sir, I agree with your comments. Let me assure you that I will take a personal interest and focus on this issue to ensure that the right thing is done for both the Nation and our men and women in California or in any other State that is involved. We certainly—we pride ourselves in being, I wouldn't say Boy Scouts, but we are pretty straight, straight, above-board, play by the rules of the game consistently with our procurements, and we certainly intend to do so here, sir.

Mr. THOMPSON. Thank you.

The second question I have pertains to section 308. Can you just, can you clarify that tax exempt language? I don't know that I fully understand that, the tax exempt status for auxiliary units?

Admiral COLLINS. Yes, sir. This had to do with providing—you know, they owned, if an auxiliary had a building as a flotilla X, as a building that they run their organization out of, or if they have a facility, a boat facility in use for the Coast Guard, then those will be federally—you know, they would be tax exempt entities.

Mr. THOMPSON. So that just codifies the tax exempt provision?

Admiral COLLINS. It codifies that for them. Right now, some might argue, if some lawyer on one side of the equation, tax lawyer may say you may already have authority to do that; our legal staff says it is not explicitly stated, it is not clear, it needs to be codified for the benefit of these terrific folks that volunteer their time and their energy and their facilities to do just marvelous things for the Nation. So it is—talk about a return on investment, Congressman.

Mr. THOMPSON. I agree with you 100 percent. I just wanted to get clarification on that.

Admiral COLLINS. Yes, sir.

Mr. THOMPSON. Thank you very much.

Mr. LOBIONDO. Thank you, Mr. Thompson.

Mr. Diaz-Balart, do you have any questions or comments?

Mr. MARIO DIAZ-BALART. No.

Mr. LOBIONDO. Commandant, I have a question on mission balance.

In the GAO's April 1 testimony before the subcommittee, Ms. Hecker stated that there have been substantial declines from traditional levels of the time spent on two law enforcement missions: Fishery enforcement and drug interdiction. Ms. Hecker then stated that the President's 2004 budget request for the Coast Guard which included \$592 million or a 10 percent increase over 2003 does not include initiatives that would substantially reverse the decline as GAO saw this. About \$168.5 million of the increase is dedicated to new initiatives, most of which relate to homeland security or to search and rescue.

Can you please address the GAO's claims that the 2004 budget proposal does virtually nothing to help the Coast Guard reverse the downward trend for fisheries enforcement and drug interdiction?

Admiral COLLINS. Clearly, I mean I don't debate the numbers that they are using. It depends upon—and I believe our staff to your staff have a briefing on this very issue on how those numbers were computed, what was the baseline, what was the point of reference, what time period they use to run the numbers from and so forth. So if you pick the very highest program hours that were used at a given time, obviously the delta looks different. But I am not debating the numbers they use based upon their point of reference.

But the question is, where are we relative to say the immediate—our gauge was the immediate 12 months or so prior to 9/11, which we thought was an appropriate benchmark since that reflected actions by Congress, the administration and our budget, and what resources we should have to do our business.

So we felt that was the appropriate benchmark. Relative to that benchmark, we are getting back to levels, pre 9-11 levels, not there on all missions. The mission areas that have the biggest gap are the law enforcement missions: fisheries, counterdrugs and migrants, because that is where the cutters are pulled back on, those missions in a security, when there is pressure for enhanced security operations. So that is where the delta is, and it runs anywhere, depending on which one of those you pick, between 5 and 20 percent less than pre 9/11 levels, when you get through the 2004 bill. That is our assessment.

Clearly, there is a delta. And how we are managing, trying to manage—we are working hard to get mission balance, Mr. Chairman. We are working hard to balance between the national defense mission, maritime defense mission, maritime security mission, and the nonhomeland security missions, we are working very, very hard to balance those, and doing it several ways. One is we are providing guidance to our field commanders about the mission allocation targets for a 6-month period that say, here is the targets for these various missions, and it is all targeted to get back to those kinds of allocations, balanced allocations.

We also allocate on risk. We will allocate to the highest risk at hand. For example, we have allocated additional cutter hours into the Florida Straits and into the Windward Pass over the last month and a half. Why? Well, the risk has gone up, the threat has gone up, relative to migrants. We are getting additional migrant interdictions, greater numbers, greater interdiction numbers. So

additional force structure was put there. It is a part of the flexibility to put assets where the risks are at any given time.

We just went to an orange condition. That changes the portfolio. That changes the allocation of our cutter mix and so forth, and then we will adjust and then we will pulse back again. I think the strength of our service is the ability to move and pulse.

Another way to mitigate this, in addition to allocating for risk, providing planning guidance, is partnerships, and we have built incredibly strong partnerships with State and local law enforcement agencies and internationally in order to leverage all of our capabilities to get the job done. The classic example here is in the counterdrug area where we have right now, if you went down to the Caribbean and looked at who is there, you would find the United States Navy, United States Coast Guard, Dutch, French, British assets all engaged in a regional collaborative effort for counterdrugs. That partnership, with Coast Guard law enforcement detachments on those foreign vessels, and having significant performance outcome equivalent to the pre 9/11 or greater. So partnerships is another mitigating strategy.

Using reservists when we can to augment our workforce to provide for those surge operations is yet another way, and quite frankly, the best way, in my mind, is building the greater capacity to do the job, and we are doing that through the 2002 supplemental, the 2003 budget, and the 2004 budget. I mean, a 30 percent increase over that time frame is pretty substantial, and it is helping us to build the capacity to get back to a better, a better ability to balance missions.

So we are not there yet. The trend is terrific. We are very, very appreciative of the Secretary and the President for our 2003 and 2004 budgets, and it is a trend line that is going to get us back to be able to manage, to manage that issue.

We will have a—we will codify all of our strategies and our expected trend and we call it a blueprint strategy document that we will be working through the next several months and have available at the end of the summer, beginning of the fall to provide to this committee and other Members of Congress on exactly what the specific game plan is to develop—to manage these resources, how we manage it, how we allocate the risk, and what we perceive as the trend in terms of mission balance.

Mr. LOBIONDO. Thank you, Admiral Collins. We know that you are given a very difficult task with homeland security mission and maritime antiterrorism concerns, and we all acknowledge and recognize that that has to be a primary focus of protecting lives and protecting property from that vantage point. We applaud you for doing more with less on a continuing basis.

One of the concerns with the switch from Department of Transportation to the Department of Homeland Security was that some folks might not feel as strongly about traditional missions and, in the long term, not through malicious attempt, but just be sort of focusing on what we feel would be leaving some aspects of this out.

So we want to make sure that we are continuing to talk about continuing in ongoing missions with drug interdiction and fishery law enforcement, et cetera, but recognize that you can only do with the resources you are given. And that is why we have been press-

ing so hard for additional dollars, for additional assets, and for additional personnel. So thank you.

Mr. Filner, do you want to go again?

Mr. FILNER. Thank you, Mr. Chairman.

Admiral, you mentioned the word balance. Let me ask you about another balance between State and Federal authority.

When you—in the bill you want to expand the ability of State law enforcement officers to enforce the espionage act, and I am just wondering what that means in terms of that relationship between the State and the FBI, who has authority to investigate these things.

Admiral COLLINS. It would be very narrowly applied into a security zone enforcement that we could have delegated agents. Say we established a security zone around nuclear power point X, and we, of course, didn't have all of the resources nationally or locally to provide for a full 7 by 24 presence in that. If we had the authorities of State and local law enforcement agencies to act as our agents in enforcing that security zone and, you know, in a narrowly construed sense, a controlled sense, then we would have some leveraging capability to leverage everyone's competencies and capacity to do the job.

Mr. FILNER. You are not giving the State troopers investigative authority for espionage or anything?

Admiral COLLINS. That, no—.

Mr. FILNER. You just have a narrow kind of—.

Admiral COLLINS. It was to give additional presence, enforcement presence for all of those areas, whether it is a special regulated area or security zone and the like. That would be my preference, to shape this new authority that way, sir. I understand this can't be open-ended. It has to have boundary conditions and constraints on it. But at the heart of this is how do we work together collaboratively, leveraging all of our infrastructure and capacity to do the job, and that is the essence of this.

Mr. FILNER. I understand. Mr. Chairman, we may want to work with the Judiciary Committee or whatever to look at that section and make sure it is narrowly tailored.

In addition, your bill was going to require nontank vessels to have oil spill response plans. My State and many others already have that. Do you for see one preempting the other, or are you accepting the State plan? How do you see that happening?

Admiral COLLINS. As we have done—this is for the tank vessel provision? Clearly, as we have done for other areas, we will work with the States in a very collaborative way to ensure that we are simpatico in all of the areas.

The one area that we—we have had Supreme Court cases and other things that worked to the issue of Federal and State and local jurisdiction on these maritime issues. But our full intent is to work collaboratively with the States. The only—and sure, that would be no preemption, only if, in fact, things like required equipment—some of the States have wanted to require equipment carriage on a vessel, I mean, response equipment. That is not consistent with the philosophy of the Federal plan which requires response plans and equipment assurance and others to provide for the response capability under a performance contract in various

ports and State waters. So that is one of the things—one place that could be a rub between the State and the Federal. But quite frankly, most States adhere to that, that kind of construct and that kind of framework. So we have worked through these types of issues for other categories of response plans and I don't see why it is going to be any more difficult for the tank vessels.

Mr. FILNER. But if they say container ship, you required a response plan that was different than the State of California's. Whose would prevail, or do you see any problem? Do you see any conflict?

Admiral COLLINS. I think most of those things we have worked out. I mean, I think the record is surely clear that in most cases, we have worked out with the State a very compatible regime, a response plan regime that has been very, very compatible. So I don't, I don't foresee a huge problem here, quite frankly.

Mr. FILNER. Again, you are moving into nontank vessels now with this section of the bill. So again, Mr. Chairman, we may want to look at how that—give some guidance there that is more specific than the administration did. Thank you, sir.

Mr. LoBIONDO. Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Admiral, good to see you again today.

Admiral COLLINS. Good morning, sir.

Mr. DEFAZIO. I guess I would just like to follow up, and I am sorry I was late, I was delayed at a homeland security meeting. But I would just like to know, bringing up the homeland security issue, how you feel you are faring in this new department. There are a number of us who are concerned that it might impinge upon your nonhomeland security mission. We tried to get some very specific language and lines of authority there to assure that you would not feel those pressures. But I would just like to hear, as honestly as you can say, with everybody listening how that is working, if it requires more attention from this committee or the Congress.

Mr. FILNER. This is off the record, right? So you can be honest.

Mr. DEFAZIO. We could do the oath, yes.

Admiral COLLINS. We have only been at this since 1 March, so there is still a lot of formative things to have in the Department in terms of developing a corporate governance structure and where information flows and who makes decisions and all of those kinds of things, as any organization has to deal with. But I think it is the right place for the United States Coast Guard to be at this juncture in history. I think there is significant overlap in our missions, and the initiative of Congress to ensure a direct report of the United States Coast Guard to the Secretary was, I was applauding from the sidelines. I think that was a great construct. And I can remember talking to Secretary Ridge before the bill was passed, and he says, you know, I really like that provision.

We have great respect, great respect within the new department, support across the board. Just to give you a couple of examples, I mean it is an unprecedented response. Our first report that was sent up to Congress by the new department, the report required in the homeland security bill was the accelerating Deepwater. We got that report through our department in 2 days. We have a current rulemaking under way, under the Maritime Transportation Secu-

urity Act we will make, a pretty secure rulemaking which is really time-sensitive.

The time line is challenging. I have briefed the Secretary. He has made it one of his top 10 issues. He is terribly supportive, wants parallel processing of this, immediately cleared us to engage on being prior to final approval from the Department. I just use those two examples of the responsiveness and support we are getting.

The 2004 budget, at 10 percent growth in the environment of the 2004 budget, in the constraints that mark the entire Federal Government was pretty good support from the Secretary, and he was very supportive on the 2003 levels—2004 levels that were constructed and certainly supportive of the supplemental.

So I am very, very pleased with the support that we are getting. I attend every Under Secretary's meeting. I am, in fact, treated as an Under Secretary in the department. I attend every meeting and every decision-making meeting. We are involved in all of the little work groups that are working throughout various elements of the department. We have about 38 detailees, temporary detailees to help get the Department rolling until they get permanent employees in those seats. So we have been engaged. We have been warmly received. Our council has been sought after.

And the Secretary is very interested in our nonhomeland security missions as well. We provide him an operating summary of all of our events every day, and we categorize it by the terms of the bill which defines nonhomeland security and homeland security. We provide an operational summary of all of our major incidents. He reads that with great interest every day.

So I think it is going about as well as it can go, given the challenges of shaping a new department of this magnitude.

Mr. DEFAZIO. Okay. All right. Thank you. Thank you very much.

Thank you, Mr. Chairman.

Mr. LOBIONDO. Mr. Lampson.

Mr. LAMPSON. Thank you, Mr. Chairman, and thank you, Admiral. It is nice to see you. I appreciate your testimony today and sorry I could not be here to hear all of it.

I do have a number of questions I would love to ask about the Coast Guard's mission in the post 9/11 era, but considering the fact that there are five ports wholly within the 9th Congressional District and two more that operate within the 9th congressional district, I am going to try to focus my questions down into one specific area that I think is an extremely pressing one for the GIWW, the intercoastal waterway.

Specifically I want to focus on the Truman-Hobbs account which, as you know, is a dedicated account for alteration of bridges over navigable waters. Within my district in Galveston, Texas, the Galveston Causeway Railroad Bridge specifically has been designated a hazard to navigation. I hold in my hand a copy of a letter from Coast Guard Headquarters, the Office of Bridge Administration in Washington, dated December 19, 2000, and I would like to put this in the record, if you wouldn't mind, Mr. Chairman.

Mr. LOBIONDO. Without objection.

[The letter follows:]

U.S. Department  
of Transportation  
United States  
Coast Guard



U.S. Coast Guard Headquarters  
Office of Bridge Administration

2100 Second Street, S.W.  
Washington, DC 20533-0001  
Staff Symbol: G-CPT/35  
Phone: (202) 257-0368  
FAX: (202) 257-4046

16592  
December 19, 2000

The Honorable James D. Yarbrough  
Galveston County Judge  
722 Moody Avenue  
Suite 200  
Galveston, TX 77550

Dear Judge Yarbrough:

Pursuant to Section 3 of the Truman-Hobbs Act, as amended, a public hearing was held in Galveston, Texas, on August 30, 2000. At this hearing, opportunity was afforded to all interested parties to be heard and to offer evidence as to whether alteration of the Galveston Causeway Railroad Bridge across the Gulf Intracoastal Waterway, mile 357.2, near Galveston, Texas, is needed to render navigation through or under the bridge free, easy and reasonably unobstructed.

Based on analysis of information collected by the Coast Guard's investigation, including comments and data received at the public hearing, it has been determined that the existing bridge is an unreasonable obstruction to navigation. Therefore, alteration of the bridge under the provisions of the Truman-Hobbs Act is planned to allow for full utilization of the navigable channel.

The proposed alteration plan provides for construction of a new on-line vertical lift bridge. The new lift span over the navigable channel will provide a minimum unobstructed horizontal clearance of 300 feet. The lift span will also afford at least 73 feet of vertical clearance above mean high water in the open position and 8 feet of vertical clearance above mean high water in the closed position.

The estimated cost is \$33,350,000 with contingency. A preliminary apportionment of this amount has been prepared, giving due allowance to such features as expired service life, removal costs and cost of engineering services, arriving at a tentative allocation of \$591,175 to Galveston County and \$32,758,825 to the United States. It must be realized that these amounts are preliminary and are subject to revision as additional data becomes available. The above apportionment is based on principles of Section 6 of the Truman-Hobbs Act. Further details in connection with the above apportionment and with engineering requirements will be furnished in the near future.

In conformance with established policy to afford the bridge owner full opportunity to be heard before an Order to Alter is issued, I invite you to submit within 60 days of the date of this letter any statement of facts which you may wish to make:

Sincerely,



N. E. MPRAS  
Chief, Office of Bridge  
Administration  
U. S. Coast Guard  
By direction of the Commandant



Mr. LAMPSON. This letter further underscores the Galveston Causeway Railroad Bridge based on the investigation of the Coast Guard is a "unreasonable obstruction to navigation." further, the letter states that alteration of the bridge under the provision of the Truman-Hobbs Act is planned to allow for full utilization of the navigable channel. In this letter the Coast Guard estimated the cost of a bridge to be about \$33,350,000. The estimates that I received over the last couple of years may push that up more in line with \$37 million.

The amount that has been dedicated to the Galveston Causeway Bridge in the last 3 years has totaled around \$2.5 million. And at this rate, we may be looking at close to 3 decades before the bridge would be replaced. Everyone involved has declared that this bridge is a hazard to navigation, and perhaps it may be the most perilous situation on the entire Gulf Intercoastal Waterway. Yet, there is not sufficient and dedicated stream of funding that would allow for the problem to be rectified within a reasonable period of time.

So my question to you is what are the Coast Guard's intentions with regards to this bridge? In your view, do there need to be substantive changes made to the distribution of funds within the Truman-Hobbs account, perhaps designating certain projects as high priority and dedicating them to an expedited stream of funding to ensure that it doesn't take the 20 or 30 years to correct what can only be deemed as an absolute threat to navigation.

I have spoken with the Coast Guard in the past and have been given assurances that the Galveston Causeway Railroad Bridge is a high priority project. We know that it is for the Coast Guard within the Truman-Hobbs account, given the threats that it poses to navigation along the waterway.

So I would very much like your cooperation in working with me to ensure that the work on the project can be expedited, and then to hear your comments as well.

Admiral COLLINS. Great. Sir, let me jump into this with my staff and understand the details and the flow, the budget flow. Just a general comment on all of these bridge fundings, this has been sort of a painful thing for the last 20 years, I think, on how bridges get funded and don't get funded. From our view, this would really lend itself to some part of the highway, highway trust fund or something. But it is very, very difficult, within our capital budget, to absorb this. When we have a capital budget, it used to be, we had a capital budget like about \$350, \$400 million a year maximum and to endure projects at \$34, \$35 million is really, really almost mission impossible.

So just a general comment, I think the construct for funding bridges from our perspective is broke, and some other alternative would be actually welcome here. It is always sort of like a 9/11 Maalox moment, every budget sequence on how bridges get funded and don't get funded and it is always like a midnight hour something happens and these things get funded. That is not really a great way to run a railroad, or the bridge.

Mr. LAMPSON. This is an interesting picture. It shows about a foot or two on either side of a barge as it is going through the fenders under this thing, and the fenders are there and get hit often.

It is a problem, and again I look forward to working with you on it.

Admiral COLLINS. Let me get with my staff, sir, and I will get back to you some written correspondence on the issue and what some options are for us.

[The information received follows:]

All preliminary project coordination between the bridge owner and various interested parties is complete and a memorandum of agreement is signed. The bridge owner and the Coast Guard hope to complete selection of the architect and engineering (A/E) firm by the end of this summer in order to begin the design phase of the project. Generally, it takes about two to three years to complete all environmental documentation, obtain all permits, and produce the final design.

The Coast Guard has actually received \$1.5 million for this project to date, which should be sufficient to fund the project design phase. Of the estimated \$35 million total project cost, the Coast Guard's share is approximately \$33 million. Once sufficient funds are available (about 70% of the total estimated construction cost or approximately \$23 million), the project will proceed to the construction phase. The construction phase of this project is estimated to last approximately 2 years from the date initiated.

Mr. LAMPSON. Thank you very much.

Thank you, Mr. Chairman.

Mr. LOBIONDO. Thank you, Mr. Lampson.

Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman. As you are well aware, I am not a member of this committee, but I thank you for allowing me to sit in the with subcommittee today and ask a few questions.

Commandant, I brought to your attention, I believe last week, that although I am really pleased that all the folks have been given a signed contract for Deepwater, I was somewhat taken aback to notice that despite a number of laws to the contrary, engines are being obtained from German sources, and what remains to be bought should be made in America, and not a German engine. And the Germans were not as supportive of the recent effort in Iraq as we would like to have seen.

I would ask that you would weigh in with the supplier to see to it that those engines are made in America and that we purchase those engines in America. I think that is a very reasonable request. I know we, myself and your Coast Guard office, have been at odds at times over when they say well, that engine is part of a total package and it is a small part of a total package, but the main propulsion engine on a Coast Guard cutter is a huge expense and a huge part of that package. And I think you really have to find some—Johnnie Cochran, I don't think could come up with a defense.

Admiral COLLINS. I know we have your letter, Congressman, on the issue. The Deepwater project options are—they haven't gotten back to me on that response. I think you probably hit it right. It is part of the whole ship versus the individual systems is the measure in terms of buy American, and it is the net, you know, the net cumulative Buy America, and you check the block that meets that.

I will discuss at great length with the staff and see what the pros and the cons are and we will get back to you in as much detail as we can.

[The information received follows:]

Detroit Diesel, a U.S. unit of Daimler Chrysler Corporation, has been selected as the vendor for the propulsion system of the National Security Cutter (NSC). This vendor contract includes procurement and integration of the major components of the propulsion system to include: prime movers, reduction gear, shafting, bearings, propeller and control systems. The selection of Detroit Diesel as the vendor comes after a thorough review of requirements detailed and documented in the Request for Proposal (RFP) issuance and solicitation of Best and Final Offers (BAFO) from all competitors.

This best value selection is the result of a review of technical, cost and schedule risk associated with this system. Detroit Diesel offered a low cost, high performance, low risk solution that was technically superior and at sea today. The components Detroit Diesel offered in their proposed solution include MTU Diesels of German design and manufacture and significant domestic content such as the General Electric LM2500 Gas Turbine engine. In addition Detroit Diesel is committed to maximizing US content and is actively engaged with the shipbuilder in building the infrastructure to provide lifecycle support for engines in the USA, including training, servicing, repair, overhaul and modernization. Assembly of the engines in the USA using their 3 million square foot facility in Detroit for the follow on ships is currently being evaluated as well. Overall, the National Security Cutter will fully comply with the Buy American Act.

Mr. TAYLOR. First, I would like to ask you, what is your opinion of the Jones Act?

Admiral COLLINS. I think it is an important piece of legislation for the Nation and the maritime industry, and it should be supported.

Mr. TAYLOR. Do you think additional loopholes to the Jones Act are a good thing or a bad thing?

Admiral COLLINS. I don't think loopholes are good for anything, and we should work to have regulations and laws that don't have loopholes in them.

Mr. TAYLOR. Are you familiar with the loophole—what is actually a ruling by the Customs Department that allows cruises to nowhere, a foreign flag vessel, to operate out of Biloxi, Mississippi, or Charleston, South Carolina, or San Francisco—foreign-owned, foreign crew sail out of San Francisco, go out to international waters, turn around and come back; never goes to its port of registry and is considered a so-called "cruise to nowhere," an international cruise, and that way they don't have to live by American minimum wage laws or OSHA laws. They don't necessarily become Coast Guard inspected; they become ISO inspected.

Are you familiar with that Customs ruling that allows this to happen?

Admiral COLLINS. Generally. Not all the details.

Mr. TAYLOR. It is not a law. It is actually a Customs ruling.

I am bit concerned, Mr. Chairman, that in the proposed authorization bill for the Coast Guard someone has put language in there and I don't know who, but I would point out to you that it would take this Customs ruling and make it the law of the land.

I would bring your attention to section 3505(d) and it says that is a foreign vessel on a voyage, any part of which is on the high seas departing from one place in the jurisdiction of the United States and returning to that same place. So, I mean, this is a dream for those people who are presently taking advantage of a loophole, because we are putting that loophole in the law.

This is section 3505—I am sorry section 224.

Admiral COLLINS. I think the attempt here was so that we would have vessels that had to—by having this provision, they would have to comply with the International Safety Management Code when they are on voyages on the high seas. So that was the attempt of this initiative, to ensure that that didn't get out from underneath the requirement of the International Safety Code provisions. So if we have—it, by so doing, incorporated some large unintentional consequences, we will have to look at it.

Mr. TAYLOR. Commandant, look at the next part. The next part says, the cruises to nowhere, you would legalize them, the way I read it.

The second part, "and arriving at another place under the jurisdiction of the United States," that would completely gut the Jones Act. That would let a foreign flag vessel sail from Port of Charleston, go 12 miles out to sea, land in Jacksonville, which is truly a coast-wide voyage, but because he went out to sea, that would make it an international voyage and get him around the Jones Act. And I hope that is not your intention.

Admiral COLLINS. That is clearly not the intent.

Mr. TAYLOR. But I would think the Johnnie Cochrans of the world—and they are out there and they are waiting for stuff like this—would turn around and completely eliminate the Jones Act by doing this.

Admiral COLLINS. Let me tell you, Congressman. I hope to get together with my legal staff and the committee staff to ensure that we don't have those large unintended consequences, and we tighten this up to ensure that we get what the aim here is.

Mr. TAYLOR. May I make a further request? As you know, there is a Cabotage task force, people in the industry that are living by our rules, living by your rules, vessels in America paying American taxes. I would ask, and I can only ask, that you would also run this by them, because I want to get their opinion on it and make sure that is not what is happening.

Thank you, Commandant.

Mr. FILNER. Admiral, what is the intent of this?

Admiral COLLINS. The intent was for those vessels to have to comply with the ISM code, the International safety management code, which is an international protocol, safety protocol; and by not having this designation, we can't enforce this on them. So it was an attempt to get them underneath the umbrella of the safety code. That was the intent of the initiative.

But we will take a very tight round turn on it in terms of the Jones Act and other issues and make sure there is no unintended loophole written in here, and work with your staff to ensure that that is not the case.

[The information received follows:]

The intent of this proposed legislation is to require the owner of a foreign flag vessel sailing from a U.S. port to have a safety management system in place to promote safe operations under the International Safety Management Code (ISM), regardless of the vessel's destination. This legislation does not broaden any exemptions for foreign vessels and it does not permit foreign vessels to engage in any activity not already permitted by existing U.S. law. The legislation does not modify the Jones Act, nor is it intended to codify the U.S. Bureau of Customs and Border Protection's interpretation that a foreign vessel on a "voyage to nowhere" is not engaged in coastwise trade under the Jones Act. While this legislation was developed as part of the Coast Guard's normal annual legislative process and not specifically coordinated with industry, the intent of this provision is to close a loophole available to foreign vessels, and ensure that foreign vessels involved in "voyages to nowhere" are not exempt from obligations under U.S. and international law to comply with the International Safety Management Code. The Coast Guard will continue to work with the Committee to review this proposal and modify it as needed to resolve both Congressional and Coast Guard concerns.



Mr. LOBIONDO. Thank you, Admiral. We will follow up and make sure that we are in full understanding, as best as we can, for agreement.

Admiral COLLINS, it was very clear to me and, I think, many others that the intent of Congress in the Homeland Security Act was that the Coast Guard remain a maritime agency and that the shoreside activities are merely an adjunct to the Agency's maritime responsibilities. If Congress were to provide the arrest, firearms and property seizure authorities requested by the Agency, what assurances could you give us that we would—that the Department of Homeland Security would not divert the Coast Guard to carry out nonmaritime homeland security law enforcement functions, and it would again be to the detriment of traditional missions?

Admiral COLLINS. Of course, this is our initiative; it is not our—our meaning within the Coast Guard, proof by the Department. But clearly it was our initiative, and we felt that we have partial authorities when we go—we are aboard waterfront facilities, we are aboard other facilities in and around the port; and not to have that is sort of an incomplete tool kit.

It also puts us at jeopardy in terms of detention. You are detaining too long, how long can you detain, and all those legal dimensions of detainers, arrests and encumbrances.

So there is no intention at all to have this as an additional authority so we can be, you know, in Peoria or something doing a homeland security mission at all. Clearly, the Homeland Security Act puts boundary conditions on the length of time we can even have folks operating under other organizational components right in the act. And our full intent is only to use this and to use this primarily in the execution of our day-to-day missions.

For instance, to have the MMST, the new units, the Maritime Safety and Security Teams, not with this authority when they are out and about enforcing waterfront protection and so forth and so on in their hot pursuit of someone that they run up against the beach, and he takes off; and not to have some authority to apprehend them and arrest them, to me, is not consistent with the whole operational envelope and risks they deal with. So full intent to apply to Coast Guard missions.

Mr. LOBIONDO. Just for purposes of clarity, this was not an initiative that was brought to you by Homeland Security?

Admiral COLLINS. Absolutely not.

Mr. LOBIONDO. And you would view this as an extension of what is already part of your Coast Guard maritime mission, but is an encumbrance because, once you hit the shore, if there is a bad guy, you can't follow up?

Admiral COLLINS. Yes, sir. We worked closely with the Justice Department on this and discussed this issue with the Justice Department, if in fact, within the framework of existing law, we could have this authority. I think their lawyers and our lawyers came to the agreement that it would be much better for us to have explicit authorities to carry firearms and to make arrests on the landside adjacent to waterways, as needed.

So that was the collective judgment of both the DOJ and Coast Guard lawyers on this issue.

Mr. LOBIONDO. Thank you for the clarification.

Mr. Filner, do you have anything else you want to raise?

Mr. FILNER. I want to make sure for the record that the authority was not also used—been asked to use to track down Texas legislators who were going to be observing. You weren't asked to track them down, were you?

Admiral COLLINS. No, sir.

Mr. FILNER. I want to bring it up for the press.

Mr. LoBIONDO. Mr. Taylor?

Mr. TAYLOR. I have such a short memory, and I wanted to knock those two things out. But I do want to thank you for the great work that the men and women of the Coast Guard do and for their responsiveness. I hope I mentioned it to you last week.

Just last week, I was out with the Mississippi Bureau of Marine Resources. They were putting out oyster shells. In the process of that, we came across a sunken boat, superstructure about a foot out of the water. So it was an accident waiting to happen, and your ace navigation group of Gulfport were out that afternoon, marking it. So they are incredibly responsive. They do great work every day.

Admiral COLLINS. Thank you, sir, thank you for the comment.

Mr. LoBIONDO. We thank you very much. I think this was a good and informative hearing. We have some points to follow up on. But once again, we appreciate the great job that you, your staff and all the men and women of the Coast Guard are doing.

The hearing is adjourned.

[Whereupon, at 11:10 a.m., the subcommittee was adjourned.]

U. S. Department of  
Homeland Security  
  
United States  
Coast Guard



Commandant  
United States Coast Guard

2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: G-ICA  
Phone: (202) 366-4280  
FAX: (202) 366-7124

**DEPARTMENT OF HOMELAND SECURITY**

**U. S. COAST GUARD**

**STATEMENT OF**

**ADMIRAL THOMAS H. COLLINS**

**ON**

**COAST GUARD & MARITIME TRANSPORTATION ACT OF 2003**

**BEFORE THE**

**SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION**

**COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

**U. S. HOUSE OF REPRESENTATIVES**

**May 22, 2003**

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD  
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**Introduction**

Good morning, Mr. Chairman and distinguished members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss the Coast Guard's Fiscal Year 2004 Authorization Bill. The bill is an important step toward enhancing our ability to serve the American people and meet the myriad of challenges we face in this new century.

The Coast Guard remains the world's premier maritime, multi-mission, military force. We are the lead Federal agency for Maritime Homeland Security. We enforce our nation's maritime laws and treaties; we protect human life at sea through search and rescue and maritime safety; we are guardians of the marine environment; and we defend freedom throughout the world, from our own shores to the faraway shores of the Persian Gulf. We are proud to be America's shield of freedom.

To this end we continue seeking to improve the tools we have available to perform our missions. In this spirit, we have submitted to Congress our 2004 Authorization Bill. It represents a significant team effort on the part of the Coast Guard, the Department of Homeland Security, our former home, the Department of Transportation, and the Administration. We believe it is well designed to help the Coast Guard accomplish its many missions.

I would like to highlight some of the important Coast Guard missions and how our proposed authorization bill will help fulfill those missions:

**Maritime Homeland Security**

The President has clearly indicated that protecting the homeland is the government's number one priority, and the Coast Guard has a critical role in that effort. The Coast Guard's continuing homeland security mission is to protect the U.S. Maritime Domain and the U.S. Marine Transportation System by denying their use and exploitation by terrorists.

Threats to the security of the United States extend beyond overt terrorism. Countering illegal drug and contraband smuggling, preventing illegal immigration via maritime routes, preserving living marine resources from foreign encroachment, and preventing environmental damage and responding to spills of oil and hazardous substances are all critical elements of national and economic security.

In response to the 9/11 terrorist attacks on our nation, the Coast Guard quickly refocused our homeland security missions by establishing new port security zones, placing Sea Marshals on inbound merchant ships, conducting additional patrols off America's coasts, establishing Maritime Safety and Security Teams to protect major ports, and implementing new procedures to monitor vessel and crew movements within ports and coastal approaches.

The authorization bill submitted to Congress by Secretary Ridge is aligned with the President's National Strategy for Homeland Security and will enhance our abilities to accomplish the broad range of maritime homeland security missions. Some examples of proposed changes:

- Changing the current statutory mandate requiring warning shots as a condition precedent to the delivery of disabling fire in all situations against vessels that refuse to stop when ordered. This change will reduce the danger to third parties in situations where warning shots may pose a danger to innocent bystanders. This provision would also extend the authority to use warning shots and disabling fire against non-compliant vessels from DOD aircraft carrying Coast Guard members.
- Especially critical to our homeland security efforts are the enhanced law enforcement authorities. These provisions would increase our law enforcement authority ashore and allow the Coast Guard to use state and local law enforcement agencies to enforce Coast Guard security zones. The authorities will help protect America by leveraging scarce resources and partnering with local law enforcement, and have been carefully considered by all elements of the Administration. I hope you will consider including these important provisions in the final bill.

Every provision of the proposed authorization bill reflects a careful balance between our safety and security missions, protecting our citizens and their rights, and promoting the needs of our service members. In addition to enhancing our maritime homeland security missions, the authorization bill reflects my priorities as Commandant - Readiness, People, and Stewardship.

#### **Readiness**

Readiness means being capable, competent, and vigilant in all of our mission areas. It means being ready now, even as we build our capabilities for the future. Our Authorization bill enhances Coast Guard readiness in several ways:

- Increased law enforcement authority ashore would allow a Coast Guard member who detects a violation of Federal law to arrest the suspect, instead of having to rely on other Federal, State or local law enforcement authorities. This change would also give explicit authority for appropriate Coast Guard members to carry firearms in performance of their official duties.

- Amending the statutory prohibition on acceptance of voluntary services would allow personnel from non-governmental maritime organizations to assign personnel to the Coast Guard to engage in “exchange tours” enhancing readiness by significantly increasing cooperation and understanding between the Coast Guard and maritime industry.
- Allowing the Coast Guard to require communications equipment on certain types of vessels and allowing us to prohibit maritime use of electronic devices that interfere with critical communications and navigation systems would greatly improve vessel safety and security in certain maritime sectors.

The Integrated Deepwater System (IDS) is an integral part of every element of the Coast Guard's maritime homeland security (MHS) strategy and in balancing our non-MHS missions. MHS necessitates pushing America's maritime borders outward, away from ports and waterways so layered, maritime operations can be implemented. IDS provides a network-centric system of Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C4ISR) that is critical for enhancing maritime domain awareness. Through common systems and technologies, common operational concepts, and a common logistics base, new and modernized IDS assets and equipment will provide increased capabilities, multi-mission readiness and availability, and interoperability with the Department of Defense and other Department of Homeland Security agencies.

President Bush has asserted that our aging assets and infrastructure must be re-capitalized. Based on the organization's current capacity levels and the required capabilities immediately needed for Homeland Security and the other missions the American public expects, the continued funding of Deepwater is imperative and the Coast Guard's highest capital priority.

#### **People**

My priority is the Coast Guard's people, who, every single day accomplish the Coast Guard's many critical missions. We must continue to attract, develop, retain, and deploy a diverse, highly capable and flexible workforce. We must also emphasize training, education and professional development, and constantly improve the quality of life of our employees. Our Authorization bill supports the Coast Guard's people in several ways:

- Critical skills training bonuses for enlisted personnel will allow us to encourage enlisted members to enter critical skill specialties where we have experienced shortages such as Electricians Mate, Machinery Technician, and Telecommunications Specialist.
- Increases to the authorized number of officers allowed on active duty reflects the growth of the Coast Guard and will allow us to better carry out all our traditional missions and successfully respond to the demands of maritime homeland security.
- Improving housing authorities will allow us to enhance the quality and quantity of housing available to our members and their families.

### **Stewardship**

Stewardship is embracing innovation, technology, and effective management practices to achieve measurable outcomes. It is striving to be the best managed and best led organization in the federal government. It is creating a culture of innovation and process change to enhance productivity and reduce workload while driving toward quality outcomes. Our Authorization bill supports stewardship in several ways:

- Additional authority for travel card management that will reduce delinquencies with Federal contractor-issued travel charge cards and will correct an oversight which gave this same authority to DoD last year, but inadvertently excluded the Coast Guard.
- New authority for Coast Guard nonappropriated fund activities such as the Coast Guard Exchange System and our morale, welfare and recreation programs that will make those programs more efficient by allowing them to enter into contracts with the Coast Guard and other Federal agencies. This same authority was given to Department of Defense programs in 1996.
- Changes to the law regarding the property of Coast Guard Auxiliary units, exempting Auxiliary elements from taxation, and designating as Federal property for liability purposes, property owned by Auxiliary elements. This change will reduce financial burdens on Auxiliary units and encourage donations to the Auxiliary by making those donations tax deductible. The proposal will also remove the threat of liability to the Auxiliary from owning property, all of which is used for the safety and protection of the American public.
- Modifications to the Oil Pollution Act of 1990 ("OPA 90") will allow us to improve environmental stewardship in several significant ways, and I hope you will consider including these important provisions in the final bill.

### **Conclusion**

The Coast Guard faces many challenges. Among these are executing our homeland security missions, maintaining a high level of performance of our traditional missions, such as search and rescue and fisheries enforcement, and retaining and expanding our skilled workforce to execute these varied and complex missions. Our Authorization Bill builds upon the existing foundation and will help the Coast Guard maintain operational excellence across all mission areas to meet America's future maritime safety and security needs.

Operational excellence depends upon Readiness, People, and Stewardship of resources. The Coast Guard always strives towards operational excellence. This is no less than what the American people expect and deserve. I, along with the men and women of the Coast Guard, am honored to work with Congress to meet the challenges and fulfill the expectations of the American people.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.